

Chapter 67: BUILDINGS, UNFIT; PROPERTY MAINTENANCE

[HISTORY: Adopted by the Mayor and Council of the Town (now City) of Seat Pleasant 12-16-1968 as Ch. 32 of the 1968 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 63.

Fire prevention — See Ch. 88.

Health and sanitation — See Ch. 101.

§ 67-1. Adoption of standards; copies on file.

[Added 3-13-2006 by Ord. No. 06-01 Editor's Note: Ord. No. 06-01 has two ordinances associated with the number, with one adopted 3-13-2006 to amend this chapter, and the other adopted 11-13-2006 as an emergency cable television franchise. Ord. No. 06-01, adopted 3-13-2006, which added this section, also repealed former § 67-1, Definition.]

Subject to the modifications contained in § 67-2, there is hereby adopted by the City of Seat Pleasant for the purpose of establishing minimum regulations governing the conditions and maintenance of buildings, structures and property in the City, and the condemnation and demolition of buildings and structures unfit for human occupancy or use, a certain document entitled the "International Property Maintenance Code 2003," as published by the International Code Council. Not less than three copies of the International Property Maintenance Code 2003 shall be kept on file in the office of the City Clerk.

§ 67-2. Modifications.

[Added 3-13-2006 by Ord. No. 06-01 Editor's Note: Ord. No. 06-01 has two ordinances associated with the number, with one adopted 3-13-2006 to amend this chapter, and the other adopted 11-13-2006 as an emergency cable television franchise. Ord. No. 06-01, adopted 3-13-2006, which added this section, also repealed former § 67-2, Determination of nuisance; notice, as amended.]

The International Property Maintenance Code 2003, as adopted by § 67-1, is modified as set forth below:

- A. In the second line of Section 101.1 on page 1, in the space labeled "[NAME OF JURISDICTION]" insert "City of Seat Pleasant."
- B. Section 102.3 on page 1 is revised to read as follows:

102.3 Application of other codes. Any repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of all other codes applicable within the City of Seat Pleasant.
- C. Section 102.7 on page 1 is revised to read as follows:

102.7 Referenced codes and standards. The standards referenced in this code and listed

in Chapter 8, except the International Zoning Code, shall be considered part of the requirements of this code to the prescribed extent of each such reference, except to the extent that any of such standards have been expressly modified in the Code of the City of Seat Pleasant. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.

- D. New Section 102.9 is added to Section 102 on page 1, to read as follows:

102.9 Conflicting provisions. In any situation where a provision of this code conflicts with the provision of any other law, ordinance, code or regulation, the provision which establishes the higher standard for the promotion and protection of the public health, safety and welfare shall prevail, regardless which may have been enacted first.

- E. Delete in its entirety Section 103, Department of Property Maintenance Inspection, on pages 1 and 2, and substitute the following:

SECTION 103 CODE OFFICIAL

103.1 General. This code shall be administered and enforced by the code official. The code official shall be such person or persons as the City Council designates from time to time.

- F. Sections 106.3, 106.4 and 106.5 on page 3 are deleted and new Sections 106.3 and 106.4 are substituted, to read as follows:

106.3 Violations and Penalties.

1. Knowing and intentional violations of this code, failures to comply with this code, or refusals or failures to comply with a notice issued pursuant to Section 107 of this code are declared to be misdemeanors. Any person who knowingly and willfully commits any of these acts shall, upon conviction, be guilty of a misdemeanor and subject to a fine of up to \$1,000, imprisonment for up to six months, or both fine and imprisonment. Each day that one of these acts continues is a separate offense.
2. Except as provided in Paragraph 1 above, violations of this code, failures to comply with this code, or refusals or failures to comply with a notice issued pursuant to Section 107 of this code are declared to be municipal infractions, and shall be subject to a fine of up to \$400 per offense. These acts are strict liability offenses. Each day that one of these acts continues is a separate offense.

106.4 Prosecution. In addition to the penalties provided for in Section 106.3, in case of any unlawful acts, the code official, with the approval of the chief executive officer of the Town, may institute in the name of the Town an appropriate civil action or proceeding against the person responsible for the violation for the purpose of ordering that person:

1. To restrain, correct or remove the violation or refrain from further execution of work;
2. To restrain or correct the erection, installation, maintenance, repair or alteration of such structure;
3. To require the removal of work in violation; or
4. To prevent the occupancy of the structure that is not in compliance with the provisions

of this code.

- G. The second sentence of Section 108.2 on page 4 is revised to read as follows: "Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement with private persons, and the cost thereof shall be the responsibility of the owner of the structure, shall be a lien on the real estate upon which the structure is located, and may be collected and have the lien enforced in the same manner, and have the same rights, priority rights, interest and penalties, as Town real property taxes."

- H. Section 109.5 on page 4 is revised to read as follows:

109.5 Costs of emergency repairs. Subject to the availability of funds in the City's annual budget, costs incurred in the performance of emergency work shall be paid from the treasury of the City on approval of the code official and the chief executive officer of the City. Upon request of the code official, with the concurrence of the chief executive officer of the City, the City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

- I. Section 110.3 on page 5 is revised to read as follows:

110.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be the responsibility of the owner of the structure, shall be a lien on the real estate upon which the structure is located, and may be collected and have the lien enforced in the same manner, and have the same rights, priority rights, interest and penalties, as City real property taxes.

- J. Sections 111.1 through 111.8, inclusive, on page 5 are deleted, and new Sections 111.1 through 111.5 are substituted, to read as follows:

111.1 Application for appeal. Any person aggrieved by a decision of the code official may file a written notice of appeal with the City's chief executive officer within 15 days following the day the decision, notice or order was served. A notice of appeal shall be accompanied by such fee as the City Council may prescribe. A notice of appeal shall be based upon a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code have been incorrectly applied, the provisions of this code do not fully apply, the requirements of this code can be adequately satisfied by other means, or that the strict application of any requirement of this code would cause an undue hardship.

111.2 Hearing on appeal. Any appeal properly and timely filed shall be heard by a hearing officer designated for that purpose by the chief executive officer. The hearing officer shall be an attorney at law licensed to practice in Maryland. The hearing shall take place as soon as practicable, but in any event within 30 days, after the notice of appeal has been received by the chief executive officer. Notice of the hearing shall be provided promptly to the person who filed the notice of appeal and the code official. The hearing shall be open to the public. The hearing officer shall determine the order of presentation of evidence and argument. At the hearing, the hearing officer shall not apply strict rules of

evidence but shall accept all evidence relevant to the issues on appeal and shall give such weight to the evidence as the hearing officer deems appropriate. The proceedings of the hearing shall be stenographically recorded.

111.3 Decision on appeal. Promptly after the conclusion of the hearing, the hearing officer shall decide the appeal by rendering written findings of fact and conclusions of law and send a copy to the chief executive officer, the code official, the person who filed the notice of appeal and any other parties to the proceeding.

111.4 Judicial review. Any person aggrieved by a decision of the hearing officer may file a request for judicial review to the Circuit Court for Prince George's County. Promptly after filing the request for judicial review, the person who files the request for judicial review shall obtain a transcript of the proceedings before the hearing officer at his or her expense and shall provide a copy to the chief executive officer without charge.

111.5 Stay of enforcement. Any notice or order of the code official (other than an imminent danger notice) is automatically stayed for a period of 15 days after service of the order or notice. If a notice of appeal is timely filed with the chief executive officer, the notice or order is further stayed until the hearing officer has rendered a decision on the appeal. The notice or order, and decision of the hearing officer, is not stayed during any period of judicial review unless otherwise ordered by the court.

- K. The definition of "code official" as contained in Section 202 on page 7 is revised to read as follows:

CODE OFFICIAL. Such person or persons as the City Council may designate from time to time.

- L. In the first line of Section 303.14 on page 10, insert "May 1" in the space labeled "[DATE]"; and in the second line of Section 303.14 insert "September 30" in the space labeled "[DATE]."
- M. In the fifth line of Section 602.3 on page 17, insert "October 1" in the first space labeled "[DATE]"; and insert "April 30" in the second space labeled "[DATE]."
- N. In the third line of Section 602.4 on page 17, insert "October 1" in the first space labeled "[DATE]"; and insert "April 30" in the second space labeled "[DATE]."

§ 67-3. Hearing.

At the time stated in the ordinance, the Mayor and Council shall hear the owner of the property or his/her representative, if either should appear, and may also hear any additional evidence bearing on the case.

§ 67-4. Declaration of nuisance; order to abate.

If after the hearing the Mayor and Council shall be of the opinion that the condition of said property is dangerous to property or health or menaces the lives of persons passing along and over the highways of the City or residing in such structure or in the neighborhood of such

structure, the Mayor and Council shall pass an ordinance declaring the condition in question to be a nuisance and ordering it to be abated within a period prescribed in the ordinance.

§ 67-5. Violations and penalties.

- A. If the nuisance so declared is not abated within the period prescribed in said ordinance, the owner of the property shall be deemed guilty of a municipal infraction and, upon conviction thereof, shall be subject to a fine of \$400 for each day during which the nuisance is continued after the expiration of the period prescribed for its abatement, each day's violation of said ordinance being hereby declared to be a separate offense. [Amended 2-14-1994 by Ord. No. 94-01]
- B. If the nuisance is not abated within the period prescribed by the ordinance as aforesaid, the Mayor and Council shall, in addition to the penalty prescribed herein, take such other and further steps as may be necessary, either by the repair or removal of the property, the costs thereof to be assessed against the property and to become a lien thereon and collectible in the same manner as delinquent City taxes.

§ 67-6. Condemnation.

- A. Any building which shall be found by the Mayor and Council to come within any of the following descriptions shall be condemned by the Mayor and Council as unfit for human habitation and shall be so designated and placarded by the Code Enforcement Officer: [Amended 2-14-1994 by Ord. No. 94-01]
 - (1) One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or the public.
 - (2) One which lacks illumination, ventilation or sanitary facilities adequate to protect the health or safety of the occupants or the public.
 - (3) One which because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
- B. Whenever the Code Enforcement Officer or the Chief of Police of the City in which the premises are situated or any other person authorized by the Mayor and Council to make an inspection has reason to believe that any building used for human habitation or intended to be so used should be condemned as unfit for human habitation, he/she shall so notify the Mayor and Council, stating the location of the building and the respect or respects in which he/she believes it to be unfit. [Amended 2-14-1994 by Ord. No. 94-01]
- C. The Mayor and Council may set a time and place for a hearing as to the condition of any building to which their attention has been called under Subsection B of this section and shall give at least 10 days' notice of such hearing. The notice, which shall state the nature of the alleged defect or defects in the building, shall be served personally on the owner or his/her agent if he/she can be found in the City. In the event that the owner or his/her agent cannot be found in the City, the notice shall be sent to the owner or his/her agent by registered mail, return receipt requested, to his/her last known address. In the event that the addressee fails to receive said notice and said notice is returned to the City, then and in that event a copy of

said notice shall be:

- (1) Published in a newspaper of general circulation in the City.
- (2) Sent by regular mail to the occupant or occupants of the building.
- (3) Posted in a conspicuous place on the premises on which the building is located.

- D. At the hearing, the Code Enforcement Officer and/or any representative he/she may designate or any other person previously authorized by the Mayor and the Council to make an inspection of the premises shall submit evidence to substantiate his/her belief that the building comes within one of the descriptions set forth in Subsection A of this section; and any person who wishes to oppose the condemnation of the building as unfit for human habitation shall, if having filed notice of such intention with the Mayor and Council at least two days previously, be given a reasonable time for the presentation of any reasons why the building should not be so condemned. The Mayor or, in his/her absence, any Councilperson designated for the purpose by a majority of the Councilpersons present shall preside at the hearing and determine how much time shall be allotted to each person and the order in which they shall speak, provided that the Code Enforcement Officer shall present his/her evidence first and shall be permitted to address the Mayor and Council after all others have spoken. [Amended 2-14-1994 by Ord. No. 94-01]
- E. After the hearing, the Mayor and Council shall determine whether or not the building should be condemned as unfit for human habitation. In case it is so condemned, the Mayor and Council may also determine whether it should be destroyed or whether the defect or defects found may be corrected by making specified improvements.
- F. Any building condemned by the Mayor and Council as unfit for human habitation, after a hearing provided in this section, shall, if so directed by the Mayor and Council, be so placarded by the Code Enforcement Officer and shall be vacated within a reasonable time as ordered by the Mayor and Council or by the Code Enforcement Officer if no time has been specified by the Mayor and Council. [Amended 2-14-1994 by Ord. No. 94-01]
- G. No building which has been condemned by the Mayor and Council under the provisions of this section shall be again used for human habitation until written approval is secured from the Code Enforcement Officer, if he/she has participated in any way in the proceedings under this section. Such approval must be given and the placard removed by the Code Enforcement Officer whenever the defect or defects on which the Mayor and Council's condemnation was based shall have been eliminated or adequately corrected. [Amended 2-14-1994 by Ord. No. 94-01]
- H. No person shall deface or, except as provided in Subsection G of this section, remove any placard placed on any premises in accordance with Subsection F of this section.
- I. Any person who shall violate any provision of this section shall upon conviction be subject to fine of \$400, and each day's failure to comply with any such provision shall constitute a separate violation. [Amended 2-14-1994 by Ord. No. 94-01]